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Paper No. 4

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**AUG 02 2002**

**OFFICE OF PETITIONS**

In re Application of  
Shaun Pendo et al  
Application No. 10/038,276  
Filed: December 31, 2001  
Attorney Docket No. 047711-0280

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: DECISION GRANTING  
: PETITION  
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This is a decision on the paper styled "PETITION TO CORRECT FILING DATE" filed July 17, 2002, which is proper treated as a petition under 37 CFR 1.10(d), requesting that the above-identified application be accorded a filing date of December 31, 2001, rather than the presently accorded filing date of January 2, 2002.

Applicants request the earlier filing date on the basis that the application was purportedly deposited in Express Mail service on December 31, 2001, pursuant to 37 CFR 1.10. In support applicants submit, inter alia, a copy of a U.S. Postal Service (USPS) record styled "Pickup Service Statement for Express Mail, Priority Mail, or Parcel Post" showing that a package bearing Express Mail label No. EL926457574US was picked up by the USPS from counsel's office on December 31, 2001. The same Express Mail receipt number was referred to in the copy of the original transmittal letter submitted with the present petition.

Since the evidence from the USPS, namely, the Express Mail pickup Service Statement, corroborates a "date-in" of December 31, 2001, the petition is granted. The \$130.00 petition fee is being credited to counsel's deposit account.

The application is being returned to Initial Patent Examination Division for correction of the filing date to December 31, 2001.

Telephone inquiries specific to this matter should be directed to Wan Laymon at (703) 306-5685.

Brian Hearn  
Special Projects Examiner  
Office of Petitions  
Office of the Deputy Assistant Commissioner  
for Patent Policy and Projects